

TELEPHONE INTERVIEW

The Applicant thanks the Examiner for the telephone interview on March 21, 2002. The Applicant elects without traverse Group I, claims 1-14, drawn to a label product, classified in class 283, subclass 74.

Section 103 Rejection

Claims 1-5, 7-9 and 11-13, stand rejected under 35 U.S.C. 103(a) as obvious over Horton-Steidle et al. (U.S. Patent No. 6,167,679) in view of De La Huerza (PAP 2001/0017817). The applicant respectfully traverses this rejection. Claim 1 has been amended to more clearly distinguish the invention from the prior art of record. In particular claim 1 requires that "the indicia and the symbol are electronically read and compared to determine if the contents of the container corresponds to the label." This feature of the claimed invention is not disclosed, taught or suggested by the prior art of record.

An important advance of the present invention is that it uses a symbol on the container associated with the contents of the container, and a separate indicia on a label. When the label is placed on the container, the symbol can be compared with the indicia "to determine if the contents of the container corresponds to the label" as required by Claim 1. The advantage of this arrangement may be understood in connection with Fig. 7 which illustrates the symbol 38, which is placed on the container and is associated with the contents of the container, and the label 32 with an indicia 64 associated with the prescription. Through a single efficient step, a barcode reader 76 may scan the symbol 38 and the indicia 64 to determine "if the contents of the container corresponds to the label," as recited in Claim 1. By this arrangement of the present

invention, the risk of mis-filling of the prescription is significantly reduced over the prior art. None of the prior art references of record, alone or in combination, teaches such an arrangement.

The Office Action states that "Horton-Steidle et al. discloses in Fig. 1A and 3, a label (212) for a container (any type) which can have another symbol label (214), wherein the label (212) has a rectangular first portion (first half of the label) having an outer edge and a rectangular second portion (second half of the label) in which indicia (bar codes, as stated in Col. 4, lines 1-10) is inscribed on the second portion and the symbol which can be electronically read." The Office Action also recognizes that Horton-Steidle does not disclose "a second portion extending out and away from a side outer edge of the first portion; a second portion which extends from a corners of the first portion and out from a top side; wherein the symbol and label are aligned vertically; and wherein the indicia is a checksum of the symbol," but asserts that "De La Huerga discloses in Fig. 16, 17, 'a label (50) having a first portion (527) with an outer edge and a second portion (529) extending out and away from the outer edge.'" Applicant respectfully disagrees.

De La Huerga discloses that "the label 50 has a main section 527, a connecting portion 528, and a bottom portion 529" (Page 23, Paragraph 274). The De La Huerga patent nowhere teaches or suggests "a second portion extending out and away from a side of the outer edge" as recited in claim 1. At least this feature of the claimed invention is not taught, disclosed or suggested by De La Huerga or Horton-Steidle et al., as discussed above.

In summary, Horton-Steidle, alone or in combination with De La Huerga or any other reference of record, does not teach, disclose or suggest at least two important features of Claim 1: (1) "a second portion extending out and away from a side of the outer edge," and (2) electronically reading and comparing the symbol associated with the contents of the container

and an indicia on the label "to determine if the contents of the container corresponds to the label." Since the proposed combination does not teach or suggest at least these elements of claim 1, Applicant submits that the pending claims are allowable.

Claims 2-5, 7-9 and 11-13 depend from independent Claim 1, and the Applicant submits that these claims are allowable over the prior art of record for at least the same reasons that Claim 1 is allowable, as indicated above.

Conclusion

In view of the amendments and remarks set forth above, the Applicants respectfully submit that the application is now in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested.

Should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Commissioner is authorized to deduct said fees from Gardner Carton & Douglas Account No. 07-0181.

Respectfully submitted,

Date: August 27, 2002

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In re Appln. of Jerome L. Krupa
Application No. 09/759,875

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I hereby certify that this RESPONSE TO OFFICE ACTION (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the data shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date: August 27, 2002

J. Whitcomb

Appendix A



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PATENT
Docket No.: P1329USA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Jerome L. Krupa)	Examiner:	Henderson, Mark T.
)		
Application No.	09/759,875)		
)		
Filed:	January 12, 2001)	Art Unit:	3722
)		
Title:	Label And Method Using)	Confirmation	2537
	The Label To Fill)	No.	
	Containers)		

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AMENDED SPECIFICATION MARKED TO SHOW CHANGES MADE BY THE PATENT OFFICE

On page 13 beginning on line 9 and ending on line 13 with the following amended paragraph:

The label 32 of the present invention is intended to be affixed to the container 10 shown in Figure 3. As seen in Figure 5, the label is placed on the container such that the side edge 48 is aligned with the orientation line 40. Thus, the second portion 62 will extend over at least a portion of the orientation line 40. The position of the second portion 62 [vertically aligns with] having the barcode 64 vertically aligns with the barcode 38 on the container 10.

On page 13 beginning on line 20 and ending on page 14, line 6 with the following amended paragraph:

The position of the barcodes 38 and 64 on the container 10 allows a barcode reader 76 to read both barcodes simultaneously, as seen in Figure 7. By reading the barcodes 38 and 64, it is possible to verify that the label 32 is placed on a container 10 that is filled with the pharmaceutical corresponding to the one indicated on the label 32. It is also possible that the

barcodes 38 and 64 can be arranged in different places on the container and that the barcode reader 76 can still read the barcodes to ensure that the label 32 and the pharmaceutical in the container correspond. The barcode reader [36] 76 used by the present invention is manufactured by Symbol Technologies, Inc. of Bohemia, New York. The barcode reader [36] 76 for the present invention can be configured to [the codes] simultaneously check that the barcode 64 corresponds to the barcode 38.

On page 16 beginning on line 9 and ending on page 17, line 2 with the following amended paragraph:

After the container's barcode 38 has been scanned, the system prints the sheet 66, including labels 32, 32a, 68, and 70, information 72, and receipt 74 in step 118. On the labels 32 and 32a, the system 100 prints the barcode [68] 64 on the second portion 62. In order to check that the label 32 corresponds to the pharmaceutical in the container 10, the barcode 64 is generated so that it corresponds to the prescribed pharmaceutical. In the preferred embodiment, the system 10 generates a barcode that corresponds to the checksum of the barcode 38 on the container 10. As the physician's office receives inventory of containers having prepackaged pharmaceuticals, the system receives the necessary information regarding the barcodes on the received containers 10. When the system is used to generate a prescription, the system generates a checksum for the prescribed pharmaceutical using the known barcode values provided to the system 100. The barcode 64 that is printed on the labels 32 and 32a corresponds to the system-generated checksum. In the preferred embodiment, the barcode 64 is a six-digit code. It has been found that having six digits is sufficient to include enough information within barcode 64 to

ensure that the label 32 corresponds to the contents of the container 10. Of course, methods other than generating checksums can be used to ensure that the correct label is used.



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AMENDED CLAIMS MARKED TO SHOW CHANGES MADE 37 CFR 1.121(c)(1)(ii)

1. (Once Amended) A label for use on a container having known contents wherein the contents are indicated by at least one symbol on the container, the label comprising:

a first portion having an outer edge;

a second portion extending out and away from a side of the outer edge;

indicia inscribed on the second portion identifying a desired content of the container wherein the indicia and the symbol are electronically read [to confirm the label is for use on the container] and compared to determine if the contents of the container corresponds to the label.

2. The label according to claim 1 wherein the first portion is rectangular.

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3. The label according to claim 2 wherein the second portion extends from a corner of the first portion such that the second portion extends out from a top and a side of the first portion.

4. The label according to claim 1 wherein the second portion is rectangular.

5. The label according to claim 1 wherein the symbol and the indicia are barcodes.

6. The label according to claim 1 wherein a barcode reader simultaneously reads the symbol and the indicia.

7. The label according to claim 1 wherein the container contains pharmaceuticals.

8. The label according to claim 1 wherein the container contains body fluids.

9. The label according to claim 1 wherein the container selected from the group consisting of a bottle, a bag or a box.

10. The label according to claim 1 wherein the symbol and the indicia are aligned on the container so that the symbol and the indicia can be read simultaneously.

11. The label according to claim 1 wherein the symbol and the indicia is vertically aligned on the container.

12. The label according to claim 1 wherein the indicia is a checksum of the symbol.
13. The label according to claim 12 wherein the checksum includes a check digit of the indicia.
14. The label according to claim 1 wherein the second portion covers at least a portion of the symbol.

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